

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MARK RUMBURG,

Plaintiff,

v.

Case No. 10-CV-11670-DT

SECRETARY OF THE ARMY, JOHN M.
MCHUGH,

Defendant.

**OPINION AND ORDER DENYING PLAINTIFF'S JULY 7, 2010 REQUEST FOR A
SUBPOENA AND HIS JULY 9, 2010 "MOTION FOR A DUCES TECUM SUBPOENA
FOR THREE PARTIES" AND SUSPENDING DISCOVERY UNTIL FURTHER ORDER**

Before the court are two motions or "requests" filed by Plaintiff Mark Rumburg, seeking discovery. On July 7, 2010, Plaintiff filed an "Urgent Time-Sensitive Request for a Subpoena." In this request, Plaintiff asks the court to issue a subpoena for video footage at VG's Grocery in Sterling Heights, Michigan on July 2, 2010. On the date in question, Plaintiff asserts that, after shopping, he returned to his car and found his car unlocked and the driver's door open. Plaintiff claims that this constitutes intimidation and the video footage may reveal the identity of a person who opened his car door. Plaintiff also filed a "Motion for a Duces Tecum Subpoena for Three Parties," in which he seeks discovery from a court reporter, the United States Army, and the "EEOC Office of Federal Operations." The court will deny both motions.

Plaintiff's motions are premature. The federal rules provide that discovery may not be sought from any source before the parties have conferred under Federal Rule of Civil Procedure 26(f). See Fed. R. Civ. P. 26(d)(1). There is no indication that any such

conference has yet to occur. Additionally, even if had occurred, the court will, in this case, suspend discovery until further order. The court has not yet conducted a scheduling conference under Federal Rule of Civil Procedure 16, and the court has concerns about this litigation which must be addressed during a Rule 16 conference and before any discovery may proceed. The court generally retains broad discretion to limit the timing and scope of discovery. See Fed. R. Civ. P. 26(b). Indeed, the “desire to allow broad discovery is not without limits and the trial court is given wide discretion in balancing the needs and rights of both plaintiff and defendant.” *Scales v. J.C. Bradford and Co.*, 925 F.2d 901, 906 (6th Cir. 1991) (citing *Trevino v. Celanese Corp.*, 701 F.2d 397 (5th Cir. 1983)). At this point, the court will suspend discovery until further order. Plaintiff’s two motions seeking discovery will be denied on this basis.

Additionally, the court notes that Plaintiff has failed to follow the guidelines set forth in the local and federal rules in filing these two motions, as well as multiple other motions pending before the court. The court recognizes that Plaintiff is proceeding pro se, but he nonetheless must abide by the requirements of the local and federal rules. The local rules impose an obligation on Plaintiff to seek concurrence from opposing counsel prior to filing any motions, and to include in the motion a statement that such concurrence was sought and denied. See E.D. Mich. LR 7.1(a). Likewise, under the federal rules, before filing a motion seeking discovery, the movant must first attempt to confer with the person, or counsel, from whom the discovery is sought in an effort to obtain the discovery without court involvement. See Fed. R. Civ. P. 37(a). These rules are designed to streamline litigation, reduce unnecessary costs, and narrow issues. Failure to abide by these rules can result, not only in a denial of the motion, but

in the imposition of costs against the moving party. See Fed. R. Civ. P. 37(a)(5)(B).

Plaintiff is specifically cautioned that the court will not tolerate future noncompliance with the local or federal rules.

For these reasons,

IT IS ORDERED that Plaintiff's July 7, 2010, "Urgent Time-Sensitive Request for a Subpoena" [Dkt. 9] is DENIED and Plaintiff's July 9, 2010 "Motion for a Duces Tecum Subpoena for Three Parties" [Dkt. # 12] is also DENIED.

IT IS FURTHER ORDERED that discovery is SUSPENDED until further order of the court.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 29, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 29, 2010, by electronic and/or ordinary mail.

s/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522